

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/613,018  
Applicant : Wienhues et al  
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Examiner : Steele

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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL  
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Director of the United States Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The owner, Roche Diagnostics GmbH, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer, of prior Patent No. 5,804,371. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant

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application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

Statement under 37 C.F.R. 3.73(b)

Roche Diagnostics GmbH is the assignee of 100 percent interest in the instant application, by virtue of an assignment recorded in the U.S. Patent and Trademark Office at Reel 009971 and Frame 0915.

The undersigned, whose title is supplied below, is empowered to act on behalf of the owner.

Declaration

The undersigned hereby declares that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by

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fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Roche Diagnostic GmbH

By:

Signature

Typed Name: Dr. S. Schreiner

Dr. W. Naser

Typed Title: Holder of Procuration Mandatory

Date: December 17, 2007